IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MS JUSTICE G.ROHINI
WRIT PETITION NO : 15156 of 2004

Between:
Smt.M.Usha Rani, W/o Raja Reddy,
Mabbuvaripalli, Tanakallu Mandal, Anantapur District
..... PETITIONER

AND

1 The Sub Collector, Penukonda Division, Penukonda,
Ananthapur District
2 The Mandal Revenue Officer, Tanakallu Mandal, Tanakallu,
Ananthapur District
.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in not supplying the essential commodities to the petitioner in respect of F.P.Shop of Mabbuvaripalli Village, Tanakallu Mandal, Anantapur District, for the months of July, August, 2004 inspite of subsistence of Authorisation in favour of the Petitioner, as arbitrary, illegal, violative of AP Scheduled Commodities (Regulation of Distribution By Card System) order, 1973 as well as violative of Articles 14,16 and 21 of the Constitution and consequently direct the respondents herein to supply the essential commodities to the petitioner in respect of Fair Price Shop of mabbuvaripalli Village, Tanakallu Mandal, Ananthapur District, as usual forthwith

Counsel for the Petitioner:MR.M.PRASADA RAO

Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES

The Court made the following :

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ORDER:

The petitioner is an authorized dealer of a fair price shop. According to the petitioner, the authorisation issued in her favour is subsisting and the same is neither suspended nor cancelled as on today. It is alleged that in spite of the fact that the authorisation is subsisting, the second respondent failed to supply the essential commodities for distribution to the cardholders. Hence, this writ petition challenging the alleged action of the second respondent in not supplying the essential commodities for distribution to the cardholders.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

Even assuming that the proceedings under Section 6-A of the Essential Commodities Act, 1955 or any other enquiry with regard to the alleged irregularities in distribution of the essential commodities are pending against the dealer, the question is whether the authorities can refuse to supply the essential commodities to the dealer without either suspending or canceling the authorisation.

This issue has been considered by a Full Bench of this Court in OLETI TIRUPATHAMMA v. DISTRICT SUPPLY OFFICER (CITY), VISAKHAPATNAM AND OTHERS[1] and while concluding that in such circumstances the proceedings under Article 226 of the Constitution of India are maintainable, it has been held as under :

"The High Court while exercising its jurisdiction under Article 226 of the Constitution of India, acts sentinel qui vive and thus it has to protect the citizen from arbitrary and capricious action of the executive. If the licensing authority themselves upon application of mind come to the conclusion that the irregularities committed by the fair price shop dealer would warrant suspension of his licence, it may do so. But, in our considered opinion, the authority without taking recourse to the said action, cannot, refuse to supply the essential commodities."

In the light of the ratio laid down by the Full Bench in the above decision, the Writ Petition is disposed of with a direction to the second respondent to supply the essential commodities to the petitioner in case the petitioner is holding a valid authorization and the same is neither suspended nor cancelled as on today. It is made clear that this shall not preclude the respondents to initiate appropriate proceedings against the petitioner if the circumstances so warrant, following due process of law.

Writ Petition is accordingly disposed of. No costs.

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20-09- 2004.

klp

To

1 The Joint Collector, Adilabad
2 The Assistant Collector, Asifabad, Adilabad district
3 The Mandal Revenue Officer, Tandur Mandal, Adilabad District
4 The S.I of Police Tandur P.S. Adilabad District
5 Two CCs to G.P. for Civil Supplies, High Court of A.P. Bldgs, Hyderabad.(OUT)
6 Two CD copies.

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[1] 2002 (1) ALT 577 (FB)